

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

**IN RE: SUBPOENA TO VALVE
CORPORATION**

Misc. Case No. 2:24-mc-00026-TL

**DECLARATION OF NICOLE L. CASTLE
IN SUPPORT OF APPLE INC.'S
MOTION TO COMPEL AND IN
SUPPORT OF APPLE INC.'S MOTION
TO TRANSFER**

Underlying Litigation:

In re Apple iPhone Antitrust Litigation,
No. 4:11-cv-6714

U.S. District Court for the Northern District of
California

NOTE ON MOTION CALENDAR:

May 3, 2024: Motion to Compel
May 10, 2024: Motion to Transfer

I, Nicole L. Castle, an attorney admitted to practice *pro hac vice* before the issuing Court, the Northern District of California, and seeking admission to practice before this Court, *pro hac vice*, declare pursuant to 28 U.S.C. § 1746 the following:

1. I am a partner at the law firm of McDermott Will & Emery LLP, counsel for Apple Inc. (“Apple”) in the above-captioned matter. I respectfully submit this Declaration, together with the Attached Exhibits, in support of Apple’s Motion to Transfer and Motion to Compel.

2. The below statements are made based on my personal knowledge or based upon my review of the underlying documents or discussions with counsel representing Apple in the ongoing underlying antitrust matters.

DECLARATION OF NICOLE L. CASTLE 1

MCDERMOTT WILL & EMERY
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TELEPHONE: 312.372.2000

1 3. Pursuant to Fed. R. Civ. P. 37(a) and Local Rule 37(1), Apple and Valve's
2 respective counsel most recently met and conferred telephonically regarding Apple's Document
3 Subpoena and Deposition Subpoena on March 27, 2024, April 5, 2024, and April 8, 2024. Valve
4 has not agreed to provide the information requested by Apple in response to the Document
5 Subpoena and has not agreed to schedule the requested 30(b)(6) deposition in response to the
6 Deposition Subpoena.

7 4. Furthermore, attached hereto as the exhibits are true and correct copies of the
8 following:
9

10 Exhibit 1: Document Subpoena served on Valve Corporation dated December 9, 2020

11 Exhibit 2: Deposition Subpoena served on Valve Corporation dated July 6, 2021

12 Exhibit 3: Valve's Responses and Objections to the Document Subpoena dated December
13 23, 2020

14 Exhibit 4: Valve's Objections to Deposition Subpoena dated July 20, 2021

15 Exhibit 5: Joint Discovery Letter Brief Regarding Apple's Subpoena to Non-Party Valve
16 Corporation dated February 18, 2021. *In re Apple iPhone Antitrust Litig.*, 4:11-cv-6714,
17 Discovery Letter Brief, ECF No. 413 (N.D. Cal. Feb. 18, 2021)

18 Exhibit 6: Discovery Order dated February 24, 2021 Compelling Valve's Production of
19 Documents in Response to the Document Subpoena. *In re Apple iPhone Antitrust Litigation*, 4:11-
20 cv-6714, Order, ECF No. 418 (N.D. Cal. Feb. 24, 2021).
21

22 Exhibit 7: Electronic communication from counsel for Valve to Apple offering a date for
23 the deposition
24

25 Exhibit 8: String of electronic communication between counsel for Apple and Valve
26 regarding the Deposition Subpoena

1 Exhibit 9: String of electronic communication between counsel for Apple and Valve
2 regarding the Document Subpoena

3 Exhibit 10: April 11, 2024 letter from counsel for Valve to Apple

4 Exhibit 11: Third Amended Complaint. *In re Apple iPhone Antitrust Litig.*, No. 4:11-cv-
5 6714, Third Amended Compl., ECF No. 229 (N.D. Cal. Sept. 17, 2020)

6 Exhibit 12: February 2, 2024 order granting Plaintiffs' Renewed Motion for Class
7 Certification and requesting that the parties file a joint statement with a proposed schedule for the
8 balance of the litigation. *In re Apple iPhone Antitrust Litig.*, 4:11-cv-6714, Order, ECF No. 789
9 (N.D. Cal. Feb. 2, 2024)

10 Exhibit 13: Plaintiffs' Renewed Motion for Class Certification. *In re Apple iPhone*
11 *Antitrust Litig.*, 4:11-cv-6714, Renewed Mot. for Class Certification, ECF No. 683 (N.D. Cal. Mar.
12 1, 2023)

13 Exhibit 14: March 29, 2022 order denying Plaintiffs' Motion for Class Certification
14 Without Prejudice. *In re Apple iPhone Antitrust Litig.*, 4:11-cv-6714, Order, ECF No. 630 (N.D.
15 Cal. Mar. 29, 2022)

16 Exhibit 15: February 15, 2024 Joint Schedule. *In re Apple iPhone Antitrust Litig.*, 4:11-
17 cv-6714, Joint Proposed Schedule, ECF No. 791 (N.D. Cal. Feb. 16, 2024)

18 I declare under the penalty of perjury under the laws of the United States of America that
19 the foregoing is true to the best of my knowledge.

20 Executed this 12th day of April 2024.

21 /s/ Nicole L. Castle

22 Nicole L. Castle

CERTIFICATE OF SERVICE

I, Daniel-Charles Wolf, an attorney, hereby certify that on April 12, 2024, I filed this document with the Clerk of the Court through electronic mail, and served the foregoing Motion via electronic mail to the following parties, through counsel:

Nathan M. Buchter
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Attorney for Valve Corporation

/s/ Daniel-Charles Wolf
Daniel-Charles Wolf
Attorney for Apple Inc.

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